

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

PRELIMINARY STATEMENT

1. This is an action for damages brought by an individual consumer Anders Covert, against the Defendant First Advantage Background Services Corporation for violations of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681 *et seq.*, as amended. Under the FCRA, “consumer reports” subject to the statute’s protections include not simply those used in establishing the consumer’s eligibility for credit, but also those used for “employment purposes.” 15 U.S.C. § 1681a(d)(1)(B).

Original Complaint - 1 Jury Demand

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2. The FCRA was enacted “to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy,” 15 U.S.C. § 1681(a)(4), by operating “in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy” of the consumer information they disseminate. 15 U.S.C. § 1681(b).

THE PARTIES

3. Plaintiff Anders Covert is an adult individual residing in Seattle, WA.

4. Defendant First Advantage Background Services Corporation (“First Advantage”) is a consumer reporting agency which provides background and employment screening services, risk-management services and products, information management products and services, and decisions-making intelligence. First Advantage regularly conducts business in the District of Washington and has a principal place of business located at 1000 Alderman Drive, Alpharetta, GA 30005.

JURISDICTION AND VENUE

⁵ Jurisdiction of this Court arises under 15 U.S.C. § 1681p and 28 U.S.C. §§ 1331.

6. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b).

FACTUAL ALLEGATIONS

7. In or around September 2018, Plaintiff applied for employment with ResCare Home Health Care (“ResCare”) as an Area Supervisor

8. Plaintiff interviewed for the position and was provisionally hired by ResCare, contingent upon a background check

1 9. ResCare requested from the Defendant, and the Defendant sold to ResCare a
2 consumer report concerning the Plaintiff, on or around September 05, 2018.

3 10. The consumer report furnished by Defendant was for employment purposes.

4 11. The consumer report furnished by Defendant was inaccurate. Specifically, the
5 inaccurate information includes, but is not limited to, a criminal charge against Plaintiff from the
6 State of Idaho which was dismissed on January 25, 2018.

7 12. The inaccurate information negatively reflects upon the Plaintiff and misidentifies
8 him as having a criminal conviction. It appears that Defendant, as a result of its unreasonable
9 procedures, produced a consumer report that identified Plaintiff as having a criminal conviction,
10 because it failed to update its criminal records.

12 13. Defendant has been reporting the inaccurate information through the issuance of
13 false and inaccurate background information and consumer reports that it has disseminated to
14 various persons and prospective employers, both known and unknown.

16 14. The inaccurate information includes, but is not limited to, records of a criminal
conviction.

18 15. The inaccurate information grossly disparages the Plaintiff and portrays him as
19 having a criminal conviction. There is perhaps no greater error that a consumer reporting agency
20 can make.

21 16. The derogatory inaccuracy appears to be caused by a failure to update its public
22 records data. Any rudimentary inspection of the data would reveal the inaccuracy. Defendant
23 obviously failed to employ such a procedure.

1 17. In creating and furnishing the Plaintiff's consumer report, Defendant failed to
2 follow reasonable procedures to assure the maximum possible accuracy of the information it
3 reported about the Plaintiff. Had Defendant followed such procedures it would have never falsely
4 reported the criminal conviction on Plaintiff's consumer report.

5 18. Plaintiff was subsequently denied the Area Supervisor position by ResCare and
6 was informed by ResCare that the decision in denying his employment as an Area Supervisor was
7 the inaccurate criminal information that appears on Plaintiff's First Advantage consumer report
8 and that the inaccurate information was a substantial factor in the denial.

9 19. Plaintiff disputed the inaccurate information with First Advantage by oral and
10 written communications to its representatives and by following Fist Advantages' established
11 procedures for disputing consumer credit information.

12 20. On or about September 5, 2018, Plaintiff first disputed the inaccurate information
13 by calling First Advantage on the phone. First Advantage did not accept this phone call as a
14 dispute because it was "over the phone" and "without documentation" of the inaccuracy. Wanting
15 to dispute again, Plaintiff contacted the Idaho Transportation Department ("ITD) and the Judicial
16 District Court to obtain documentation of the inaccurate information.

17 21. On or about September 7, 2018, the Driving Records Program Supervisor for the
18 IDT submitted an email directly to First Advantage confirming that Plaintiff received a dismissal
19 of his criminal charge. Also attached to the email was the Court Order of Dismissal. On the same
20 day, Plaintiff forwarded this email with the attached Order to First Advantage.

21 22. Notwithstanding Plaintiff's efforts, in or around October 1, 2018, Defendant sent
22 Plaintiff correspondence indicating its intent to continue publishing the inaccurate information
23

1 and Defendant continued to publish and disseminate such inaccurate information to other third
2 parties, persons, entities and potential employers.

3 23. Despite Plaintiff's efforts, Defendant, however, has never: (1) contacted Plaintiff
4 to follow up on, verify and/or elicit more specific information about Plaintiff's disputes; (2)
5 contacted all third parties that would have relevant information concerning Plaintiff's disputes;
6 (3) forwarded any relevant information concerning Plaintiff's disputes to the entities originally
7 furnishing the inaccurate information; and (4) requested or obtained the actual public records,
8 police records or other records relating to the criminal charges.

9 24. Despite Plaintiff's exhaustive efforts to date, Defendant has nonetheless
10 deliberately, willfully, intentionally, recklessly and negligently repeatedly failed to perform
11 reasonable reinvestigations of the above dispute as required by the FCRA, failed to remove the
12 inaccurate information and continued to report the derogatory inaccurate information about the
13 Plaintiff.

14 25. As a result of Defendant's conduct, Plaintiff has suffered actual damages in the
15 form of form of lost employment opportunities, harm to reputation, and emotional distress,
16 including humiliation and embarrassment.

17 26. At all times pertinent hereto, Defendant was acting by and through its agents,
18 servants and/or employees who were acting within the course and scope of their agency or
19 employment, and under the direct supervision and control of the Defendant herein.

20 27. At all times pertinent hereto, the conduct of Defendant, as well as that of its agents,
21 servants and/or employees, was intentional, willful, reckless, and in grossly negligent disregard
22 for federal and state laws and the rights of the Plaintiff herein.

COUNT I

VIOLATIONS OF THE FCRA

28. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

29. At all times pertinent hereto, Defendant was a “person” and “consumer reporting agency” as those terms are defined by 15 U.S.C. § 1681a(b) and (f).

30. At all times pertinent hereto, the Plaintiff was a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).

31. At all times pertinent hereto, the above-mentioned consumer report was a "consumer report" as that term is defined by 15 U.S.C. § 1681a(d).

32. Pursuant to 15 U.S.C. § 1681n and 15 U.S.C. § 1681o, Defendant is liable to Plaintiff for willfully and negligently failing to comply with the requirements imposed on a consumer reporting agency of information pursuant to 15 U.S.C. §1681e(b) and 1681i.

33. The conduct of Defendant was a direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, actual damages and harm to the Plaintiff that are outlined more fully above and, as a result, Defendant is liable to the Plaintiff for the full amount of statutory, actual and punitive damages, along with the attorneys' fees and the costs of litigation, as well as such further relief, as may be permitted by law.

JURY TRIAL DEMAND

34. Plaintiff demands trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant, based on the following requested relief:

- (a) Actual damages;
 - (b) Statutory damages;
 - (c) Punitive damages;
 - (d) Costs and reasonable attorney's fees pursuant to 15 U.S.C. §§ 1681n, 1681o; and
 - (e) Such other and further relief as may be necessary, just and proper.

Respectfully Submitted,

Dated: November 19, 2018

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